

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION  
OPIATE LITIGATION

This document relates to:

*The County of Trumbull v. CVS Health  
Corporation et al.*, Case No. 18-op-45079,

and

*The County of Lake v. CVS Health  
Corporation et al.*, Case No. 18-op-45032

“Track Three Cases”

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

**PLAINTIFFS’ RESPONSE TO DEFENDANTS’ NOVEMBER 12, 2021 SUBMISSION  
ON JURY INSTRUCTIONS AND VERDICT FORM**

For purposes of preserving the record for any potential appeal, Plaintiffs hereby respond to the Defendants’ November 12, 2021 Submission on Jury Instructions and Verdict Form. Dkt. # 4146. Defendants’ submission does not purport to raise new issues or arguments concerning the Court’s proposed jury instructions and verdict forms; rather, “out of an abundance of caution,” Defendants’ merely compile and resubmit their prior submissions to the Court and the Special Master in order to avoid any argument that they have failed to preserve any such issues or arguments for appeal.

Defendants’ submission is redundant and unnecessary. This Court has repeatedly provided the parties with the opportunity required by Rule 51, Fed. R. Civ. P., to object on the record and out of the presence of the jury to the Court’s proposed jury instructions

and verdict forms, and both sides have repeatedly availed themselves of those opportunities. Moreover, the Court has repeatedly advised the parties that all prior objections to the jury instructions and verdict forms will be deemed preserved for appeal, and that there is therefore no need for the parties to repeat and resubmit arguments concerning these matters that have already been considered and rejected by the Court. Plaintiffs therefore merely note and, for purposes of preservation, incorporate by reference all of their previously stated objections to Defendants' arguments concerning the Court's proposed jury instructions and verdict forms, without burdening the Court by resubmitting them herein.<sup>1</sup>

Dated: November 14, 2021

Respectfully submitted,

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<sup>1</sup> For the same reasons, Plaintiffs understand that, pursuant to the Court's guidance, their own previously stated objections and requests for modifications to the proposed jury instructions and verdict forms have already been preserved for appeal, and therefore do not think it necessary to resubmit them to the Court at this time.

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 14, 2021, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF system.

/s/Peter H. Weinberger

Peter H. Weinberger